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In re Application of	:	
FOCKE, Heinz et al.	:	
Application No.: 10/533,240	:	DECISION ON
PCT No.: PCT/EP03/11774	:	
Int. Filing Date: 24 October 2003	:	REQUEST
Priority Date: 05 November 2002	:	
Attorney's Docket No.: Q87659	:	UNDER 37 CFR 1.42
For: HINGE-LID PACKET FOR	:	
CIGARETTES	:	

This is a decision on applicants' 28 November 2005, submission of a declaration containing an indication that joint inventor Heinz Focke is deceased. The declaration has been treated as a request for status under 37 CFR 1.42.

#### **BACKGROUND**

On 24 October 2003, applicants filed international application PCT/EP03/11774, which claimed a priority date of 05 November 2002. A copy of the international application was transmitted to the Office by the International Bureau on 21 May 2004. The deadline for entry into the national stage in the United States was 05 May 2005.

On 29 April 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 September 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 28 November 2005, applicants submitted a declaration of the inventors, with an indication that joint inventor Heinz Focke was deceased and the surcharge for late filing of the oath or declaration.

#### **DISCUSSION**

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.42. The declaration lists the inventors and their citizenships and the legal representatives and the legal representatives' citizenships, residences and postal addresses. See 37 CFR 1.497.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is GRANTED.

The application has a date of 28 November 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.



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